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October 30, 2008

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The Honorable Anne K. Quinlan, Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re Finance Docket No. 35160, Oregon International Port of Coos Bay—Feeder Line Application—Coos Bay Line of the Central Oregon & Pacific Railroad, Inc

Dear Secretary Quinlan.

Central Oregon & Pacific Railroad, Inc ("CORP") is in receipt of a letter (the "Port's October 30 Letter") filed this morning by the Oregon International Port of Coos Bay (the "Port"), in which the Port purports to file new evidence regarding further changes in the market price of scrap steel. The Port's October 30 Letter should be disregarded.

As the Port well knows, the record in this proceeding closed on September 30, 2008, when the Port filed a Supplemental Reply pursuant to the Board's *September 10 Decision*. The Port's Supplemental Reply went far beyond the limited scope of supplemental evidence authorized by the *September 10 Decision*. Not content to rest on its Supplemental Reply (and numerous prior filings), the Port filed a Petition for Leave to Supplement the Record on October 17, 2008, in which it presented yet another NLV estimate based upon further changes in scrap steel prices since September. Now, the Port seeks to amend its NLV evidence yet again on the eve of the Board's decision, with a further "update" regarding the decline in scrap steel prices over the past two weeks. The Port's attempt to amend its evidence – on an issue totally unrelated to the issues with respect to which the Port was granted leave to file its September 30 Supplemental Reply – should be rejected.

The Port's post-September 30 filings are a blatant attempt to take improper advantage of the precipitous drop in commodities prices that has accompanied the recent overall decline in financial markets. If the Board elects to rely upon AMM prices in calculating the scrap steel portion of the NLV of the Coos Bay Subdivision, it should use an average of AMM prices prevailing over the period during which this proceeding has been pending in order to avoid a determination that is unduly influenced by market volatility. Indeed, the Port itself has previously argued that "the Board can use an average of valuation dates." Port's Reply at 14 (Of course, as CORP has previously shown, the bona fide bids that it submitted from reputable salvage contractors constitutes the best record evidence of the NLV of the steel assets associated with the line.)



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Finally, it should be noted that the Port's current position – i.e., that the Board should base its NLV calculations on the price of scrap steel as of October 29, 2008 – utterly contradicts its prior arguments. The Port has now argued, at various points during this proceeding, that NLV should be based upon steel prices as of April 18, 2008 (*see* Feeder Line Application at 18), September 21, 2007, the date of the embargo (*see* Port's Reply at 18-19); and even May 5, 2004, the date upon which the Port asserts CORP should have sought to abandon the Coos Bay Subdivision (*see* Port's Reply at 18). In each instance, the date proposed by the Port was transparently calculated to produce a lower NLV (and thereby reduce the cost of acquiring the line), rather than to produce a determination of the fair value of the line.

In short, the Board should decide this case based upon the record as of September 30, 2008, as authorized by the Board's *September 10 Decision*.

Sincerely,

A handwritten signature in black ink, appearing to read "Terence M. Hynes".

Terence M Hynes

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